

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of:)	
)	Case Nos. SWO-P4B-02B-00-013
GARY PATRICK GAROFANO,)	SWO-P4B-02B-00-014
License No. CSWP-1129-C,)	
)	FINDINGS OF FACT,
Respondent.)	CONCLUSIONS OF LAW, AND
)	FINAL ORDER

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Having reviewed the pleadings, documents and correspondence contained in the file in this matter, the Idaho State Board of Social Work Examiners (the "Board") hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. Respondent Gary P. Garafano ("Respondent") is a duly licensed social worker in the State of Idaho holding License No. CSWP-1129-C.
2. On or about December 20, 2001 the Bureau of Occupational Licenses filed a formal complaint against Respondent on behalf of the Board. The Complaint alleged that Respondent had violated Idaho Code 54-3211(6), IDAPA 24.14.01.450.02.e (failure to notify clients of interruption of services and/or failure to seek the transfer, referral, or continuation of services for clients), IDAPA 24.14.01.450.01.h (exploitation of professional relationship with a client), and IDAPA 24.14.01.450.01.i (engagement in sexual acts with a person who had been a client within the past three (3) years).
3. On or about March 8, 2002, Respondent voluntarily surrendered his license to practice social work. Respondent, while not making any admissions, did agree that the allegations against him, if they had been proven at a hearing, would constitute grounds for the imposition of discipline against him. A true and correct copy of Respondent's voluntary surrender form is attached hereto as Exhibit 1.

4. Respondent knowingly and freely waived his right to a hearing, and waived all rights granted to him pursuant to the Administrative Procedures Act, chapter 52, title 67, Idaho Code.

CONCLUSIONS OF LAW

1. As a licensed social worker in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 32, Idaho Code, and the rules and regulations promulgated by the Board thereunder.

2. The allegations in the Administrative Complaint, if proven, would constitute violations of the Social Work Practice Act and Board rules promulgated thereunder and constitute grounds for revocation or suspension of Respondent's license to practice social work pursuant to Idaho Code §§ 54-3211 and 54-3212.

3. Respondent's voluntary surrender of licensure authorizes the Board to revoke, suspend, or take other disciplinary action against Respondent's license without further process pursuant to Idaho Code §§ 54-3211 and 54-3212.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, that license No. CSWP-1129-C issued to Respondent Gary P. Garafano is hereby

_____ Revoked

X Suspended for _____ days 5 years; the suspension ✓ is retroactive to March 8, 2002 _____ is effective immediately

based upon voluntary surrender, and is subject to subsequent review pursuant to Title 54, Chapter 32, Idaho Code.

It is further ordered that, should Respondent request reinstatement of licensure in the future, that he present the following information to the Board with his application for reinstatement:

1. Respondent shall satisfactorily complete of a minimum of fifteen (15) semester hours (or the equivalent quarter hours) of graduate-level coursework covering the following subject matters:

- a. Ethics and boundaries between the counselor and clients; and
- b. Interpersonal relationships in counseling, transference, the dynamics between client and counselor, and issues of power and influence that the social worker inherently has over clients.

2. Respondent must receive prior approval by the Board as to both the institution and coursework for which he is seeking credit. After completion of the coursework, Respondent will provide certified transcripts to the Board.

3. Respondent must present to the Board a thorough assessment prepared by a licensed mental health care provider discussing Respondent's course of treatment, Respondent's prognosis, and an opinion as to whether Respondent is able to function independently and/or safely as a ^{licensed, mental health} professional ~~counselor~~ in public or private practice.

4. Respondent shall execute a release of information allowing the Board to obtain access to any information it deems relevant to adequately assess Respondent's request for reinstatement.

5. Upon a showing of satisfactory completion of the requirements of paragraphs (1) through (4) above, Respondent's license may be reinstated by the Board on a probationary basis. The terms of probation may include, but not be limited to, a period of supervision by another licensed social worker.


6. The Board reserves the right to assess investigative costs and attorney's fees incurred in this matter as a condition of reinstatement.

7. *The Board reserves the right to request that Respondent appear before the Board in person with any request for reinstatement.*

This order is effective immediately.

DATED this 1st day of April, 2002.

IDAHO STATE BOARD OF
SOCIAL WORK EXAMINERS

By 
Robert Payne, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of April, 2002, I caused to be served a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER addressed as follows:

Gary Patrick Garofano
3202 Maze Avenue
Boise, ID 83706

☒ U.S. Mail, postage prepaid
☒ Certified U.S. Mail, return receipt
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile: _____
☐ Statehouse Mail

Nicole S. McKay
4068 Suntree Way
Boise, ID 83706
Telephone: (208) 336-0099

☒ U.S. Mail, postage prepaid
☐ Certified U.S. Mail, return receipt
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile: _____
☐ Statehouse Mail

Kirsten L. Wallace
David Lloyd
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail, postage prepaid
☐ Certified U.S. Mail, return receipt
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile: _____
☒ Statehouse Mail

**VOLUNTARY SURRENDER OF LICENSE
IN LIEU OF FORMAL DISCIPLINARY HEARING**

I, Gary Garafano hereby voluntarily surrender my license to practice Social Work, License No. CSWP 1129-C in the State of Idaho and will immediately discontinue the practice of Social Work in this state. By affixing my signature hereto, I acknowledge that:

1. I have been advised that, without my consent, no legal action can be taken against me except as allowed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code.
2. I have been advised of and I understand the nature of the allegations against me.
3. I understand that I have the following rights, among others: the right to representation by legal counsel, the right to a formal hearing, to reasonable notice of such hearing, to present evidence and testimony on my behalf, to compel the testimony of witnesses, to cross-examine the witnesses against me, and the right to request reconsideration or to appeal this matter to district court. I waive all such rights afforded to me.
4. I also waive the right to contest this surrender and the right to challenge the Board for bias in any subsequent proceedings concerning this matter or any other matters brought before the Board.
5. I understand that upon acceptance by the Board of the voluntary surrender of my license to practice social work, the Board of Social Work Examiners will enter an order pursuant to Idaho Code §§ 54-3211 and 54-3212 revoking, suspending, or otherwise disciplining my license to practice social work based upon this voluntary surrender of my license, and I hereby consent to the imposition of such discipline.
6. In surrendering my license to practice social work for imposition of discipline by the Board, I am not making any admissions; however, I agree that the allegations against me, if the same had been proven true in a disciplinary hearing, would constitute grounds for the imposition of discipline against me.
7. I understand that by surrendering my license to practice social work I am also surrendering all of the privileges associated with that licensure, until such time as I am again properly licensed.
8. I agree that there will be no rebate or refund, either in full or in part, of any sums previously made by me in connection with my licensure, including but not limited to payments of license application or renewal fees.
9. I understand that to obtain a license to practice social work in the state of Idaho, I must re-apply to the Idaho State Board of Social Work Examiners pursuant to the provisions of Title 54, Chapter 32, Idaho Code and all applicable rules and orders entered by the Board.
10. I understand and agree that any decision regarding reinstatement of my license is a discretionary decision for the Board. I understand and agree that the Board may rely on factors set forth in this document or other than those set forth in this document as grounds for denial of a petition for reinstatement.

DATED: 3/8/02

Gary Garafano
Signature of Licensee

3202 Magee Ave
Address

Boise ID 83706
City, State, Zip

DATED: 03-08-02

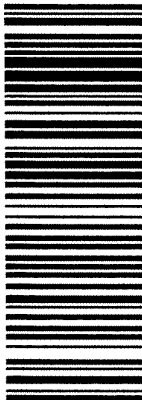
[Signature]
Signature of Witness

Exhibit 1
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STATE OF IDAHO
 DEPARTMENT OF SELF-GOVERNING AGENCIES
 Bureau of Occupational Licenses
 Owyhee Plaza
 1109 Main Street, Suite 220
 Boise, Idaho 83702-5642

RETURN SERVICE REQUESTED

CERTIFIED MAIL



7000 1530 0005 5349 2699

GARY P. GAROFANO
 3202 MAZE AVENUE
 BOISE, ID 83706

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GARY P. GAROFANO
 3202 MAZE AVENUE
 BOISE, ID 83706

7000 1530 0005 5349 2699

2. Article Number (Copy from service label)

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) B. Date of Delivery
 G. P. Garofano 7/1/99
- C. Signature ☒ Agent ☐ Addressee
 X R. Garofano ☐ Yes ☒ No
- D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

Findings of Fact, Conclusion of Law
 Final Order

Postage \$
 Certified Fee
 Return Receipt Fee (Endorsement Required)
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees \$

Sent To: Gary Garofano, Garofano
 3202 Maze Ave.
 Boise, Id. 83706

PS Form 3800, May 2000 See Reverse for Instructions